

B-83



STATE OF NEW JERSEY

In the Matter of Mark Sprawka,
Laborer 2 (M0527P), City of
East Orange

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2014-997

List Removal Appeal

ISSUED: FEB 11 2015 (JET)

Mark Sprawka appeals the attached decision of the former Division of Classification and Personnel Management (CPM),¹ which found that the appointing authority had presented a sufficient basis to remove the appellant's name from the Laborer 2 (M0527P), City of East Orange, eligible list on the basis of failure to respond to the notice of certification.

The appellant took the open competitive examination for Laborer 2 (M0527P), achieved a passing score, and was ranked tied for first on the resultant list of eight eligibles that has an expiration date of November 21, 2015. The appellant's name was certified to the appointing authority on November 26, 2012. In disposing of the certification, the appointing authority requested the removal of the appellant's name from the eligible list on the basis of failure to respond to the notice of certification.

On appeal to CPM, the appellant asserted, among other things, that he timely notified the appointing authority that he was interested in the position. CPM determined that the appointing authority had presented a sufficient basis to remove the appellant's name from the subject eligible list.

On appeal, the appellant submits a notarized letter indicating, among other things, that he timely responded to the Notice of Certification advising the appointing authority that he was interested in the position.

¹ Now the Division of Agency Services.

In response, the appointing authority maintains that it did not receive a response from the appellant. Moreover, the appointing authority explains that it only received responses from two people and an appointment was made in accordance with the Rule of Three.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)6 provides that an eligible's name may be removed from a list for "non-compliance with the instructions listed on the notice of certification." *N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his or her name from an eligible list was in error.

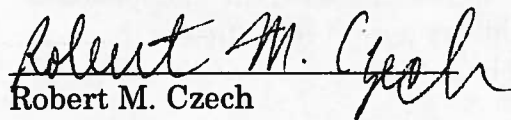
In the instant matter, the appointing authority requested the removal of the appellant's name from the November 26, 2012 certification of the Laborer 2 (M0527P) list because he failed to respond to the notice of certification. Although the appellant provides a notarized statement indicating that he sent a letter expressing his interest in the position, he did not submit a sworn notarized statement or proof of mailing that he responded. In this regard, the notarized statement, without being sworn, is not sufficient to show that he sent a letter to express an interest in the position. Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient justification for removing his name from the Laborer 2 (M0527P) eligible list.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 4th DAY OF FEBRUARY, 2015



Robert M. Czech

Chairperson

Civil Service Commission

**Inquiries
and
Correspondence**

**Henry Maurer
Director
Division of Appeals
& Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312**

Attachment

**c: Mark Sprawka
Kelly Fields
Jillian Barrick
Kelly Glenn
Joseph Gambino**



STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION

DIVISION OF CLASSIFICATION AND PERSONNEL MANAGEMENT
P. O. Box 313
Trenton, New Jersey 08625-0313

Robert M. Czech
Chair/Chief Executive Officer

Chris Christie
Governor
Kim Guadagno
Lt. Governor

September 24, 2013

Mr. Mark Sprawka

Title: Laborer 2
Symbol: M0527P
Jurisdiction: East Orange
Certification Number: OL121571
Certification Date: 11/26/12

Initial Determination: Removal – No Response to Certification Notice

This is in response to your correspondence contesting the removal of your name, from the referenced eligible list.

The Appointing Authority requested the removal of your name in accordance with 4A: 4-4.7(a) 6, which permits the removal of a candidate's name, from the eligible list, for failure to respond to the Notification of Certification.

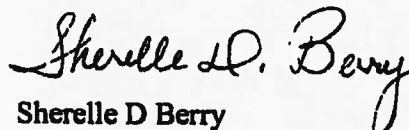
After a thorough review of our records and all the relevant material submitted, we find that there is not a sufficient basis to restore your name to the eligible list. Therefore, the Appointing Authority's request to remove your name has been sustained, and your appeal is denied.

Please be advised that in accordance with Civil Service Rules, the Appointing Authority may appeal this decision to the Division of Appeals and Regulatory Affairs (DARA) within 20 days of the receipt of this letter. You must submit all proofs, arguments and issues which you plan to use to substantiate the issues raised in your appeal. Please submit a copy of this determination with your appeal to DARA. You must put all parties of interest on notice of your appeal and provide them with copies of all documents submitted for consideration.

Please be advised that pursuant to P.L. 2010 c.26, effective July 1, 2010, there shall be a \$20 fee for appeals. Please include the required \$20 fee with your appeal. Payment must be made by check or money order only, payable to the NJ CSC. Persons receiving public assistance pursuant to P.L. 1947, c. 156 (C.44:8-107 et seq.), P.L. 1973, c.256 (C.44:7-85 et seq.), or P.L. 1997, c.38 (C.44:10-55 et seq.) and individuals with established veterans preference as defined by N.J.S.A. 11A:5-1 et seq. are exempt from these fees. Address all appeals to:

Henry Maurer, Director
Division of Appeals and Regulatory Affairs
Written Record Appeals Unit
PO Box 312
Trenton, NJ 08625-0312

Sincerely,
For the Assistant Director,



Sherelle D Berry
Human Resource Consultant 2

c: Appointing Authority

SDB

